

HOUSE**AMENDMENT NO. _____****Offered by _____****of _____**

1 AMEND House Committee Substitute for Senate Substitute for Senate
 2 Committee Substitute for Senate Bill No. 755, Pages 22 and 23,
 3 Section 610.205, Lines 1 to 39, by deleting all of said lines and
 4 inserting in lieu thereof the following:

5 "610.205. 1. After an investigation is inactive, as
 6 defined in section 610.100, crime scene or death scene
 7 photographs and video recordings, including photographs and video
 8 recordings created or produced by a state or local agency or by a
 9 perpetrator or suspect at a crime scene, which depict or describe
 10 a deceased person in a state of dismemberment, decapitation, or
 11 similar mutilation including, without limitation, where the
 12 deceased person's genitalia are exposed, shall be considered open
 13 records for inspection, but closed records for purposes of
 14 copying under the provisions of this chapter. Unless
 15 dissemination is prohibited under 18 U.S.C. Section 2252, this
 16 section shall not prohibit disclosure of such material to:

17 (1) State and local law enforcement agencies, prosecuting
 18 attorneys, juvenile officers, courts and court personnel,
 19 coroners, the state technical assistance team, child fatality
 20 review panels, the department of social services, or other state
 21 or local officials who need access to the photograph and video
 22 recordings in order to perform their duties; and

23 (2) The deceased's nonoffending next of kin or to an
 24 individual who has secured a written release from the
 25 nonoffending next of kin. It shall be the responsibility of the
 26 nonoffending next of kin to show proof of the familial
 27 relationship. For purposes of such access, the deceased's
 28 nonoffending next of kin shall be:

29 (a) The spouse of the deceased if living;

Action Taken _____ Date _____

1 (b) If there is no living spouse of the deceased, an adult
2 child of the deceased; or

3 (c) If there is no living spouse or adult child, a parent
4 of the deceased.

5
6 Any person who is otherwise a next of kin of the deceased under
7 this section who has been found guilty of the crime that resulted
8 in the deceased's death shall be an offending next of kin and
9 shall not be authorized to access such records or consent to the
10 disclosure of such materials under this section.

11 2. Subject to the provisions of subsection 3 of this
12 section, in the case of closed criminal investigations a circuit
13 court judge may order the disclosure of such photographs or video
14 recordings not otherwise prohibited under 18 U.S.C. Section 2252
15 upon findings in writing that disclosure is in the public
16 interest and outweighs any privacy interest that may be asserted
17 by the deceased person's next of kin. In making such
18 determination, the court shall consider whether such disclosure
19 is necessary for public evaluation of governmental performance,
20 the seriousness of the intrusion into the family's right to
21 privacy, and whether such disclosure is the least intrusive means
22 available considering the availability of similar information in
23 other public records. In any such action, the court shall review
24 the photographs or video recordings in question in camera with
25 the custodian of the crime scene materials present and may
26 condition any disclosure on such condition as the court may deem
27 necessary to accommodate the interests of the parties.

28 3. Prior to releasing any crime scene material described in
29 subsection 1 of this section, the custodian of such material
30 shall give the deceased person's nonoffending next of kin at
31 least two weeks' notice. No court shall order a disclosure under
32 subsection 2 of this section which would disregard or shorten the
33 duration of such notice requirement. No court order or
34 notification to the next of kin shall be required for the release
35 or disclosure of information to state and local law enforcement
36 agencies, prosecuting attorneys, juvenile officers, courts and
37 court personnel, coroners, the state technical assistance team,

1 child fatality review panels, the department of social services
2 or other state or local officials who need access to the
3 photograph and video recordings in order to perform their duties.

4 4. The provisions of this section shall apply to all
5 undisclosed material which is in the custody of a state or local
6 agency on the effective date of this section and to any such
7 material which comes into the custody of a state or local agency
8 after such date.

9 5. The provisions of this section shall not apply to
10 disclosure of crime scene material to counsel representing a
11 defendant. Unless otherwise prohibited under 18 U.S.C. Section
12 2252, counsel may disclose such materials to his or her client
13 and any expert or investigator assisting counsel but shall not
14 otherwise disseminate such materials, except to the extent they
15 may be necessary exhibits in court proceedings. A request under
16 this subsection shall clearly state that such request is being
17 made for the purpose of preparing to file and litigate
18 proceedings enumerated in this subsection."; and

19 Further amend said title, enacting clause and intersectional
20 references accordingly.